

# DUI ARREST IN NORTHERN COLORADO?

(Useful Info Revealed That May Help You Fight Your Charges)



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By Eric A. Sunness, Esq.

## DISCLAIMER:

This publication is intended to be informational only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

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## Client Testimonials

*“I’m an undergraduate student at Colorado State University. I was stopped for speeding by CSUPD and falsely accused of Driving Under the Influence of Drugs. I was also charged with having an Open Container, and Careless Driving. Eric immediately made me feel comfortable and confident that my case would be properly resolved. He and his assistant, Tammy, kept me informed throughout the process and answered all of my questions. I was facing a fourteen-point ticket. In the end, I plead guilty to a two-point, Defective Vehicle violation. I couldn’t have been happier with the result.” – **Matthew***

*“Eric was very good at explaining to me what is going to happen when I got my DUI. I had no idea what to expect so that was very nice. He was very professional and kept me informed on what was going on with my case. When my final court date came around he let me know it was coming up. It was nice that he didn't take the first plea bargain, he kept going back trying to get it lower. In the end he was able to get my DUI deferred off my record.” – **Joseph***

*“Thank you so much for your work on my case. Your expert knowledge of the Colorado DUI laws and rules proved exceptional. From our first meeting on the Sunday before New Year’s Eve through sentencing, your guidance and empathy helped me navigate the worst situation of my life. During our first meeting you informed me of the worst case scenario and then proceeded to work my case. While there were mandatory sentencing requirements that couldn’t be avoided, you were able to have my case dismissed during the administrative hearing allowing me to keep my driving privileges. You definitely know what you’re doing and I was constantly impressed with how you worked on my case. Thanks again, I really appreciate it. You earned every dollar!” - **Christopher***

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## ATTORNEY INTRODUCTION:

My name is Eric Sunness. I have been a DUI defense lawyer in northern Colorado since 1993. I started out as an associate back in 1995 with a firm called Frey, Korb, Haggerty & Michaels, P.C. I became a shareholder in 1998.



I have represented and counseled more than 1,000 clients in DUI and DWAI cases. I have done administrative hearings before the Colorado Department of Revenue since 1993.

**Interviewer:** How did you become involved in DUI defense in the first place?

**Eric:** It has always been a practice area from the day I opened my first law firm in 1993. Honestly, I had personal tragedy in my family. A family member was killed and a very dear friend was tragically injured as a result of a DUI.

Many years before I was an attorney I knew I had a calling, and that was to help educate people how to separate their drinking and driving. Then, I would

help them through the process of improving their behavior and finding ways to change their behavior to guide them through the rocks, if you will.

**Interviewer:** How much of your practice is DUI defense?

**Eric:** Right now, about 75% of my practice is DUI defense and criminal defense.

**Interviewer:** What in particular about DUI defense is compelling to you, above and beyond any other area of the law?

**Eric:** Understanding DUI scientific evidence has taken an incredible amount of work. Understanding the defense of drunk driving cases and handling intoxication test evidence requires a lot of work.

They are using a new machine in Colorado now called the "Intoxilizer 9000." So I have been through training recently to understand the instrument and interpret the results of the instrument. I go to seminars several times a year to keep updated with regard to changes in the law and to learn new approaches.



Most importantly, if my client is not being treated fairly and the result or the offer is not a fair offer, then I do my very best to prepare the witnesses, my clients and any witnesses for trial; and then submit the case to a jury for determination.

## WHY DO YOU ADVISE ALL DRIVERS AGAINST TAKING VOLUNTARY FIELD SOBRIETY TESTS?

**Interviewer:** Can you share the story of a recent victory for one of your clients? What is the reason it was a good victory?

**Eric:** Sure. One that comes to mind most recently, I represented a college student who attends a local university in Fort Collins.



He was stopped for having a defective light on his vehicle. He was questioned by law enforcement. He denied consuming alcohol.

Nonetheless, he was arrested. He was given a choice between a blood test and a breath test. He elected to take a blood test, and he was asked to perform voluntary roadside sobriety maneuvers.

The police incident report, when it arrived, indicated that my client had failed to perform any of the maneuvers in a manner consistent with sobriety. He was charged with driving under the influence of drugs.

My client was adamant that he had not smoked marijuana or ingested any illegal drugs; nor had he consumed enough alcohol to render him impaired to the slightest degree, which is the legal standard for a driving while ability impaired charge.

To make a long story short, the blood test results came back from the lab and, sure enough, there was no illegal drug in his system. Neither was there a blood alcohol content that would render him driving while ability impaired, or a DWAI. That was just one case.

I mention that case for a couple of reasons. First, no one should agree to do the voluntary roadside sobriety test. In reviewing over 1,000 police incident reports, I have yet to come across a report where the officer described the person's performance on a test as admirable or even satisfactory. To the contrary,

those tests, in my opinion, are designed to help law officers build a case.

Oddly enough, in this case that I mentioned, my client failed the roadside sobriety tests miserably in the officer's opinion. Yet, he had no drugs or alcohol in his system at the time.

## WHAT KIND OF PERSON GETS ARRESTED FOR DUI?

**Interviewer:** Some people think a college kid is perhaps the typical person arrested for DUI. Who is the typical person: more men, women, older or younger people?



**Eric:** Typically, the people I encounter are good people who have made a mistake, an error in judgment. I have represented doctors, lawyers, college professors, law officers. They are usually good people who just made an error in judgment by getting behind the wheel after they had too much to drink.

**Interviewer:** Are a lot of your clients first-time offenders or multiple offenders?

**Eric:** It is across the board. I have several clients who are first time-offenders. It is a bit disheartening to see what I perceive to be a growing number of repeat offenders and habitual offenders, with three or more offenses. Obviously, the stakes become considerably higher when that occurs.

**Interviewer:** Is there a common backstory that you hear from people that come into your office, such as, “I only had two beers?”

**Eric:** I think a common theme is that people are generally open and honest when they’ve had the proverbial “two beers.” They say, “You know, I had two beers. I thought I waited long enough. I thought I was good to go.”

Everyone metabolizes alcohol differently, based on their height and weight and the food they may have consumed. There are a lot of factors that weigh into the equation. The reality is that it takes very little alcohol to render one impaired to the slightest degree.

**Interviewer:** As far as blood alcohol level, are your clients drunk driving or are they just slightly impaired?

**Eric:** Every case is different. I see many cases where people are just slightly over the legal limit. If that is the case, it certainly makes it easier to try to negotiate with the district attorney.

Then there is a considerably high BAC. I have seen a growing number of cases with people having an incredibly high BAC; .34 is one that comes to mind recently. That would be considered an aggravating factor, someone putting the public's safety at risk. It raises concern on the part of the district attorney and the court.

I am very careful in my approach to those cases, with regard to ordering second blood samples, getting help for people and getting them in a proper program right away.

## WHY IS IT BEST TO HIRE A LAWYER AND, HOW DO YOU FIND THE BEST LAWYER FOR YOU?

**Interviewer:** What do you recommend people do right after they are arrested, charged and then released? Do they need a lawyer? What do you advise?



**Eric:** A lot of people are under the impression that on a first DUI or DWAI, they can do it without a lawyer. They think the end result is going to be the same; that it is a slam dunk case for the prosecutor.

Well, people should never appear in court without an attorney. All communications with the district attorney and the court should be made through an attorney.

The reason is: A skilled attorney will know what questions to ask and what information to request through discovery. The attorney will be able to analyze the case thoroughly to make sure there were no constitutional violations and the case was handed

appropriately by law enforcement and any laboratories, from start to finish.

The best way to find a lawyer is through a referral. If you do not have a friend or colleague that can refer an attorney with whom they had a good experience, that can make the search more challenging.

I think reading testimonials on the internet can be helpful. A website commonly used by attorneys to find other attorneys in other parts of the country is called Martindale.com.

Martindale.com is a great source for finding an attorney. Typically, the attorneys are rated and reviewed by other lawyers and judges that handle cases in the same county the attorney practices in.

**Interviewer:** While searching for an attorney, is it best to prepare by perhaps writing notes on the case?

**Eric:** I don't know that it is necessary to write notes about what happened. Typically, I expect my clients to bring in any paperwork they have, which oftentimes is just a copy of the summons and complaint that was issued to them.

Once I am retained in the case, I obtain the entire written discovery. I have a detailed interview that takes roughly an hour. During that face-to-face interview, I am able to gather as many details as possible about the case.

This includes the stop, the two hour period of time prior to the client being stopped and every detail of what happened after their first contact with law enforcement.

In terms of taking notes, I suppose that could be helpful to some people, but it is certainly not required.

## AFTER YOUR DUI ARREST, WHY IS IT IMPORTANT TO REQUEST AN ADMINISTRATIVE HEARING RIGHT AWAY?

**Interviewer:** When potential clients come to you, I would guess they have misconceptions about the DUI process. What misconceptions do people have and how do you dispel them?





**Eric:** As far as the DUI process, a lot of times people do not read the paperwork presented to them. They are just so shocked by what happened. The first thing they need to do is very carefully read the documents provided to them by law enforcement.

A typical example is if someone submits to a breath test, and the result comes back .08 or greater. They are given a written document, an advisement that tells them they have seven days within which to request an administrative hearing with the Department of Motor Vehicles, also known as the Department of Revenue.

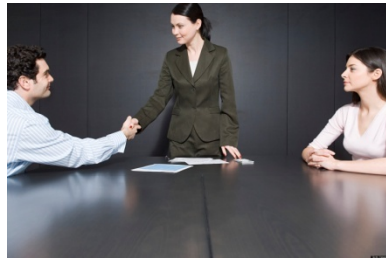
If they fail to request that hearing within that seven day window, they waive the right to a hearing and it can never be recaptured. Surprisingly, that is a step in the process that people miss.

For whatever reason, they wait to contact the attorney. They do not even realize the clock was ticking and they missed the window of opportunity to request that hearing.

## HOW CAN A SKILLED ATTORNEY HELP YOU FROM START TO END?

**Interviewer:** What happens when you proceed without a lawyer?

**Eric:** Another common misconception is that on a first offense you don't need a lawyer because the



end result is going to be the same. Nothing could be further from the truth.

I am totally up front with people about this. I tell everyone I meet with there is a possibility that the end result in the case could be exactly the same whether or not a lawyer is involved.

More often than not, I have people tell me when I raise particular legal issues, constitutional issues or evidentiary issues, the client would never be able to spot or even raise an issue with a hearing officer, district attorney or the court.

Having a skilled attorney who knows how to spot issues and articulate them to the people they are communicating with is crucial.

**Interviewer:** Law has its own language. The courts have their own language and way of doing things. A normal layperson would have no idea of the defenses they have, how to speak or how to do anything in court.

**Eric:** I think, more importantly, someone who has never been through this process before would not have any way of spotting particular issues that may help them get a better result. They also would not have any way of knowing whether the offer presented to them by the district attorney is fair.

**Interviewer:** That makes sense.

**Eric:** The other issue is with regard to the court, assuming they are before a court at some point for what is called a disposition or the final resolution of the case. There are many requests that can be made of the court that the ordinary person would not even be aware of. They would not recognize that they can ask the court for certain considerations.

**Interviewer:** In general, trying to defend yourself, you have a high likelihood of being guaranteed the full range of penalties of a DUI. But with an attorney,

it is more likely that you will get something mitigated or reduced; maybe a lot.

**Eric:** I believe that to be the case.

## WHAT MISTAKES SHOULD YOU AVOID BEFORE YOUR CASE COMES BEFORE A JUDGE?

**Interviewer:** What mistakes do people make either by the time they come to you or after their arrest?

What do people do wrong that can potentially hurt their case?



**Eric:** A common mistake people make is communicating or

discussing the case with third parties. I typically meet with the client after it is too late. They already made admissions to law enforcement that they were driving even if the law officer didn't observe them driving; or they made an admission, perhaps, that they consumed alcohol, ingested a prescribed medication or smoked marijuana.

The fact of the matter is the Fifth Amendment of our Constitution offers people protection. They do not

need to make any statement whatsoever to law enforcement concerning the facts of the case.

**Interviewer:** What other mistakes do people make?

**Eric:** Another common mistake is people do not always carefully read the documents they've been provided with. It is not uncommon for conditions to be imposed on people even before their case is heard by a judge. Examples might be a requirement that they abstain from alcohol, illegal drugs or marijuana. Random testing is common.

The client should ensure that they do not miss any test, and that they do not do anything that would place them in jeopardy of failing a random breath test or analysis.

It is not uncommon for people to be prohibited, as a condition of their bond, from leaving the state. Prior to leaving the state, they should have an attorney file a motion requesting the court's permission to travel.

## WHY MUST YOU ABSTAIN FROM DRIVING WITH A SUSPENDED LICENSE?

**Interviewer:** Once their license is suspended, do people tend to drive anyway?



**Eric:** I see more and more cases where people are caught operating a motor vehicle after their license has been revoked or suspended. More often than not, those people get caught.

With technology now, at a stop sign or stop light an officer can input a driver's license or license plate number into their laptop and in about 10 seconds determine whether the owner of the vehicle has had their license revoked.

That presents a problem. The stakes are high when people get caught driving without a license. There is a mandatory jail sentence, minimum 30 days.

**Interviewer:** How is the minimum determined?

**Eric:** It depends on the reason their license was revoked. If they get caught driving on a revoked

license that was revoked as a result of an alcohol offense, it is a minimum of 30 days.

**Interviewer:** That sounds even more serious than even the original charge of DUI.

**Eric:** It is not only 30 days, but they add an additional year suspension to the driver's license.

## WHY IS IT BEST TO BE PROACTIVE, RATHER THAN PLEAD GUILTY?

**Interviewer:** People tend to feel they are doomed. They say, "I was drunk. They got me. Why don't I just give up and plead guilty?" What is wrong with doing that?

**Eric:** It is very common for people to feel remorseful and want to take the necessary steps to put the matter behind them as quickly as possible.

I have told people many times, do not make the mistake of believing that you don't need an attorney to handle your case because it is a first offense or because you were guilty and want to put it all behind you.

I have handled countless cases where people told me that without my help, they would not have been able to spot an issue or they would not have had the same outcome without the involvement of an attorney. I try to be proactive in these cases.

If someone comes to me and they are honest with themselves and with me about what happened, I give them several options I believe will help not only with the district attorney, but in the eyes of the court when it comes to sentencing.

They may be proactive and complete their alcohol education, therapy and public service and attend a victim impact panel, all before they are required to do so by the court. I think that is a very good way of showing the district attorney and the judge that the person is taking the matter very seriously.

## HOW DO THE SERVICES OF A PRIVATE ATTORNEY DIFFER FROM THAT OF A PUBLIC DEFENDER?

**Interviewer:** How do you compare public defenders and private attorneys?



**Eric:** We have excellent public defenders here in Larimer and Weld County. I think it comes down to a question of how busy they are. This is just my personal opinion, but several public defenders have such a large caseload that they are not able to give the case the same degree of attention that a private attorney would.



I have never heard of a case where a public defender is able to attend a motor vehicle hearing to protect the person's driver's license. However, that is included in my fee in every case.

**Interviewer:** With a public defender, are you actually getting an incomplete defense because they can't handle the driver's license part of the case?

**Eric:** I would not say it is an incomplete defense. Every case has two sides to it. On the one side, you are dealing with the Department of Revenue, also called the Department of Motor Vehicles.

The issue is whether or not you were operating a motor vehicle at .08 BAC, or greater. That portion of

the case will never be handled by a public defender. They just handle the court side of the case.

## WHO WILL KNOW ABOUT YOUR DUI ARREST?

**Interviewer:** How public is someone's situation going to be when they get a DUI charge? Will work or the defendant's family find out?

**Eric:** It is interesting now with technology and the use of computers! I had a client in my office just a couple of weeks ago with the same question. That night I went home and, out of curiosity, I googled her name. Well, it popped up under a website called Mugshots.com.



It had the date of her arrest, the county where she was arrested and what the charges were. Then I started typing in other clients. For some, it actually posted their mug shot, but it did not for this particular client.

Also if you google someone's name, the local docket for the county in which the offense occurred will sometimes pop up. If someone is digging, they can

find it. As far as whether an employer would find out, it is hard to say. Every case is different.

If a person is on work release, the probation department may show up at the place of their employment just to ensure they are actually there. But they do a very good job trying to protect people's privacy and remain anonymous. It is just difficult to predict whether an employer, a family member or a friend would find out.

I'd like to add a point: On a first offense, most people including district attorneys and judges will recognize that good people make mistakes and errors in judgment. But when you have subsequent offenses, multiple offenses or high BACs, that is when concerns arise.

**Interviewer:** Seeing over 1,000 cases and peoples' reactions to being arrested for DUI, some people are remorseful. Are there any other common responses people have to being charged? What insight have you gained on the entire DUI process and the impact on clients?

**Eric:** There are totally different types of reactions to the DUI charge. There are some people who acknowledge that they made a mistake. They are typically remorseful and want to do whatever they have to do to successfully put the case in their rearview mirror.

Then, of course, I encounter my share of clients who are not always willing to accept that they made a mistake or that they may have issues with alcohol. They just do not take responsibility for their own actions.

They tend to point the finger at law enforcement or some other party who they deem responsible for their behavior. Those are the cases that are particularly challenging for me, and involve a lot of man hours to try to help those people.

## **WHAT CAN YOU DO TO IMPROVE THE OUTCOME OF YOUR CASE?**

**Interviewer:** How can people best allow you to work on their case and also do their part so everything goes as smooth as possible? What are some strategies for people to best navigate their case?

**Eric:** It is important that my clients understand I promise two things: I promise that I will be honest with them about everything, and that I will work very hard for them.



As soon as I confer a benefit on the client by entering my appearance in the case, I request the written discovery as well as any media such as audio, video or a 9-1-1 tape.

Clients can be proactive and help me by reviewing the written discovery and the media very carefully, and then communicating to me any discrepancies or mistakes.

I always make sure the client is aware that they are the one driving the bus. I am the tour guide, if you will. My role is to spot issues and provide the client with options. I also let them know what the consequences of their choices might be.

But at the end of the day, they are the ones driving the bus and they are the ones making the decision

whether to accept an offer of settlement or whether to take the case to trial.

I can tell you a lot of what I do is guide people through the rocks and speak on their behalf to make sure they are represented very effectively and professionally.

One thing I do at my firm is communicate with the client every step of the way to make sure they understand the process. Whenever I have a meeting with the district attorney, I always write to the client and provide them copies of everything. Therefore, their file mirrors my file with the exception of my handwritten notes.

Again, I stay in close communication with the client. I find that to be a skill that helps me obtain a successful result for the client, in most cases.

## **IS ERIC SUNNESS THE BEST ATTORNEY FOR YOU?**

**Interviewer:** You mentioned Martindale.com and referrals. What else should people look for when seeking competent representation? How do you really know who the best attorney is for you?

**Eric:** As a consumer looking for an attorney to represent your case, you want a professional with experience relevant to your issues. You want to know before the initial consultation that the attorney you are looking at has a good reputation among his or her peers, as well as a spotless disciplinary record.

For example, if you visit my website which is [northerncoloradolawyer.com](http://northerncoloradolawyer.com), you will see I have what is called a “lead counsel rating.” That means I meet strict quality assurance standards and am worthy of your trust and confidence.

Also, Martindale, which you mentioned, actually rates the lawyers. I have been given an AV preeminent rating. That is a significant rating accomplishment. It is a testament to the fact that my peers rank me at the highest level of professional excellence.

## **HOW DOES ERIC SUNNESS THOROUGHLY HANDLE DUID CASES, INCLUDING THOSE INVOLVING MARIJUANA?**

**Interviewer:** We’ve talked a lot about alcohol. It seems as though many people are also arrested for illegal drugs or prescription drugs. What mix of

cases do you see? Do you see a lot of drug cases, or mostly alcohol?

**Eric:** Drugs are definitely more prevalent now. There is actually a specific charge in Colorado called a DUID, driving under the influence of drugs.

As you know, with changes to marijuana legislation here in Colorado there are certainly a growing number of people using marijuana; not only medicinally but for recreational purposes. So I have seen a large increase in DUID cases in this county and Weld County.

**Interviewer:** Are DUID cases harder or more complicated to defend, compared to alcohol cases?

**Eric:** I don't know that they are more complicated. They involve, in every case, a blood test. Whenever I handle a case involving a blood test, I always request a second sample and a test by an independent lab of my choosing. Also, I request the raw data.

Back when I was a new attorney, I used to just receive a one page document from the district attorney through discovery, indicating my client had



a blood test and the results showed a, b and c. Back then, I would just rely on that.

Now, regarding a blood test, I request the raw data to actually do the testing. I want to see the gas chromatogram so that I can spot issues.

Furthermore, if the second sample comes back considerably different than the initial lab results, then I always enlist an expert, a Ph.D., to render an opinion as to the reliability of the first test.

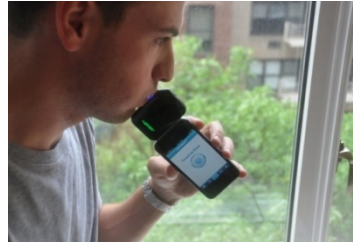
The other tricky issue is that marijuana, THC, can linger in the system. The client may have THC in their system, but that does not necessarily mean that at the time they were driving they were impaired to the slightest degree.

**Interviewer:** Marijuana stays in your system for so long. Does Colorado have laws that address active THC versus metabolized? What are the rules?

**Eric:** We do. The standard is five nanograms of THC. That is the standard presently used. But there are several issues that can be raised with regard to a driving under the influence of drugs charge. It usually involves the assistance of an expert.

## FOR MINORS AND COMMERCIAL DRIVERS, WHAT ARE THE CONSEQUENCES OF DIFFERENT BLOOD ALCOHOL LEVELS?

**Interviewer:** Are there any laws in Colorado that address drivers whose blood alcohol level is below .08?



**Eric:** Yes, it is for a DWAI, driving while ability impaired. If you have a .05 or greater, up to a .08, you are considered driving while ability impaired. The standard the district attorney would need to prove is that your ability to drive a vehicle was impaired to the slightest degree.

It is not a very difficult threshold when you are talking about “slightest degree,” and that is all the more reason people would need an aggressive defense.

**Interviewer:** Are there different blood alcohol levels for people under age 21 or for commercial drivers?

**Eric:** The term for underage drinking and driving is UDD. With that, there are different Department of

Motor Vehicle consequences and more serious consequences with the court as well. Specifically, you do not need to have a .05 if you are a minor. It is a .02 or greater.

Also, the laws are different for commercial drivers and minors. For conviction of underage drinking and driving, minors are looking at a minimum of no driving. If they are convicted of a DUI, they are looking at a one year suspension or revocation of their driving privileges.

They would be ineligible for any kind of probationary license. They would have to retake a road test, eye test and written test. They would have to take Level One alcohol education, provide proof of what is called SR-22 insurance and pay reinstatement fees. That is on a first offense.

So basically, underage and commercial drivers have different blood alcohol levels and different punishments, but I do handle these cases.

## WHAT ACTIONS MAKE DUI CHARGES EVEN MORE SERIOUS?

**Interviewer:** Are there situations that cause DUIs to be enhanced or aggravated?



**Eric:** I am not familiar with any provision in Colorado law that uses the word

“aggravated DUI” to describe the offense. But there are factors the district attorney and the court would consider aggravating factors.

Those might be if someone had more than one offense, if they had high blood alcohol content, or if someone was injured or killed as a result of their driving. All those factors make the case a lot more serious.

**Interviewer:** What is the charge if you have kids in the car who are a certain age, or if you commit another offense such as speeding?

**Eric:** In Colorado, if you are charged with driving while ability impaired or DUI and you have a child in

the vehicle with you, that constitutes child abuse. Typically, you would face an additional charge.

**Interviewer:** Regarding blood alcohol level, is there a certain level above which your DUI charges are a lot more serious and in a different realm?

**Eric:** If you have greater than a .169, it will automatically require an ignition interlock device on your vehicle for two years. If you have a .20 or greater, there is a mandatory minimum of 10 days jail required, even on a first offense.

## WHAT IS THE CURRENT LAW REGARDING REFUSAL OF BLOOD AND BREATH TESTS?

**Interviewer:** With the blood or the breath test, do people refuse them or are they accused of false refusals? How often does that come up as an issue?

**Eric:** It happens quite frequently. I have had success defending refusal cases. The consequences for a refusal at the Department of Motor Vehicles are more serious.



Under existing law, if the hearing officer finds more likely than not that the client was asked to submit to either a blood or breath test and refused, then that would be deemed a refusal and they would lose their driving privileges for a period of one year.

Now, there has been a recent change in legislation that goes into effect January 1, 2014. Multiple offenders and people who have been deemed a refusal are now eligible for early reinstatement after two months of no driving.

But they would need to have the ignition interlock device installed on their vehicle for a period of two years. That is approximately \$80 to install and \$80 a month thereafter to maintain.

But there are defenses to an allegation of a refusal. Those defenses are always explored, not only for the Department of Revenue hearing, but also when negotiating with the district attorney.

## DO YOU HAVE ANY PRIVILEGES EVEN WITH A SUSPENDED LICENSE? ARE THERE ALTERNATIVE PUNISHMENTS?

**Interviewer:** With driver's license suspension, are you able to help people get hardship, occupational, or work licenses? Is that common?



**Eric:** In Colorado, there used to be what was called a red license or a probationary license. That is no longer the case. If someone's driving privileges are revoked or suspended following a DMV hearing, there is no such thing as a red license or a probationary license that would allow them to drive to work, school or alcohol classes.

If a person's driving privilege is suspended, there will probably be a period of 30 days with absolutely no driving allowed, followed by an application for early reinstatement with the ignition interlock device.

That requires the person to enroll in a Level Two alcohol class, and also sign a lease for the ignition interlock device. They have to pay a \$95 reinstatement fee and provide proof they have what

is called SR-22 insurance for the duration of the interlock restriction.

So there are some hoops that people have to jump through. I think the laws are definitely becoming stricter with regard to drinking and driving in Colorado.

**Interviewer:** How are defendants treated by the court system in Colorado? Are they treated well or really looked down upon by the courts?

**Eric:** I think the courts are typically very fair with the people before them for DUI. We are very fortunate in Weld and Larimer Counties to have experienced judges. For the most part, they are interested in ensuring public safety and that people take the necessary steps to prevent a DUI from happening again.

**Interviewer:** Are there alternative punishments or aversion programs for first time or multiple offenders, such as house arrest or ignition interlocks?

**Eric:** It is called electronic home monitoring in the counties in which I practice. However, that is rarely an option unless the client has a life-threatening



illness or is a caregiver to someone who has a grave illness. It is very rare in Larimer County that electronic home monitoring would be an option.

There are alternative sentencing options. In lieu of jail, there is the work release program. If sentenced to jail, work release would allow the person to leave for a period of up to 12 hours a day to go to work, school, alcohol classes or therapy.

People are housed in a unit separate from the detention center, called the alternative sentencing unit. They are allowed to bring their own food in and have communication with the outside through a telephone, provided the phone does not have a camera. Most people have to purchase a disposable phone.

There is also the work program or mid-week program that allows people to complete their sentence without actually being in the detention center or jail.

**Interviewer:** When appropriate, do you work with people with those parameters?

**Eric:** Absolutely.

## WHAT WILL DUI DEFENSE ATTORNEY ERIC SUNNESS ACCOMPLISH, ON YOUR BEHALF?

**Interviewer:** How often are you able to get good results in someone's case, such as reduced charges or fines?

**Eric:** In the majority of cases I handle, the results people get by having an attorney are usually more favorable than they would have been without the assistance of counsel.

Now, there are cases where the end result would be exactly the same with or without an attorney. Even in those cases, I will have earned my fee because the client has a lawyer to protect them through every phase of the case.

They have a lawyer to analyze every aspect of the case very carefully and spot issues that might help the client obtain a more favorable result.

But at the end of the day, if I have gone through those tasks and am unable to get the case dismissed or even reduced, I would like to think I've earned my fee just by being there to guide, inform and educate the client.

I am there to give the client options; to tell them what to expect and what to say and not say; to speak on their behalf during meetings with the DA; and finally, to be at the final court appearance before the judge. I would like to think that there is value in that service.

**Interviewer:** Yes, the client has peace of mind. There are many factors and it could have gone worse. No one can know.

**Eric:** I am sure there are several cases if people had an attorney the case might have been dismissed or reduced. They will never know.

**Interviewer:** What holds people back from hiring an attorney or even talking to one? What do they fear?

**Eric:** Most people hear advertisements on TV that a driving under the influence charge will result in \$10,000 in attorney's fees and costs. I do not believe that to be the case. I charge a very reasonable flat fee for DUI cases and DWAI cases. So I think the cost of the attorney might be a concern people have.

**Interviewer:** What do you tell potential clients when they have reservations about hiring an attorney?

**Eric:** I have an initial consultation that is offered for free. It takes approximately one hour. The first half an hour of that meeting is an interview where I ask very specific questions about the incident and what happened.

Then I tell the client exactly what I would do if they were to hire me, with regard to the two sides of their case, the Department of Revenue and the court.

I tell them I do not have a crystal ball, but I have seen enough cases come and go that I can predict with reasonable certainty what a likely outcome will be in their case. Once I have the written discovery and I have analyzed it, I can predict with an even greater degree of certainty what the result will be.

A common error people make is they just assume that because they were charged that they are going to be found guilty and the result is going to be the same. That is just not the case.

**Interviewer:** What do you want potential clients to know about you?

**Eric:** I take what I do very seriously, but I do not take myself too seriously. I recognize that I am no better

than my clients, no different than my clients. I try to treat everyone I meet exactly how I hope to be treated if I was on the other side of the desk.

I try to provide clients with as much information as possible concerning their case and possible defenses. I am very approachable. I do my very best to return phone calls and emails the same day they are received. I am very personable.

I truly care about my clients and getting the very best results for them.

## DISCLAIMER:

This publication is intended to be informational only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. If you are facing legal issues, whether criminal or civil, seek professional legal counsel to get your questions answered.

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# DUI ARREST IN NORTHERN COLORADO?

(Useful Info Revealed That May Help You Fight Your Charges)

*"I'm an undergraduate student at Colorado State University. I was stopped for speeding by CSUPD and falsely accused of Driving Under the Influence of Drugs. I was also charged with having an Open Container, and Careless Driving. Eric immediately made me feel comfortable and confident that my case would be properly resolved. He and his assistant, Tammy, kept me informed throughout the process and answered all of my questions. I was facing a fourteen-point ticket. In the end, I plead guilty to a two-point, Defective Vehicle violation. I couldn't have been happier with the result." – Matthew*

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*"Eric was very good at explaining to me what is going to happen when I got my DUI. I had no idea what to expect so that was very nice. He was very professional and kept me informed on what was going on with my case. When my final court date came around he let me know it was coming up. it was nice that he didn't take the first plea bargain, he kept going back trying to get it lower. In the end he was able to get my dui deferred off my record." – Joseph*

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*"Thank you so much for your work on my case. Your expert knowledge of the Colorado DUI laws and rules proved exceptional. From our first meeting on the Sunday before New Year's Eve through sentencing, your guidance and empathy helped me navigate the worst situation of my life. During our first meeting you informed me of the worst case scenario and then proceeded to work my case. While there were mandatory sentencing requirements that couldn't be avoided, you were able to have my case dismissed during the administrative hearing allowing me to keep my driving privileges. You definitely know what you're doing and I was constantly impressed with how you worked on my case. Thanks again, I really appreciate it. You earned every dollar!" - Christopher*